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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,451	07/15/2005	Hubert Euvrard	MICROM19	2638

7590 06/12/2009
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EXAMINER

PATEL, YOGESH P

ART UNIT	PAPER NUMBER
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3732

MAIL DATE	DELIVERY MODE
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06/12/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/542,451	Applicant(s) EUVRARD ET AL.	
	Examiner YOGESH PATEL	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11,12,14,15 and 19-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11,12,14,15 and 19-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>04/23/09</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/23/2009 has been entered.

Claim Rejections - 35 USC § 103

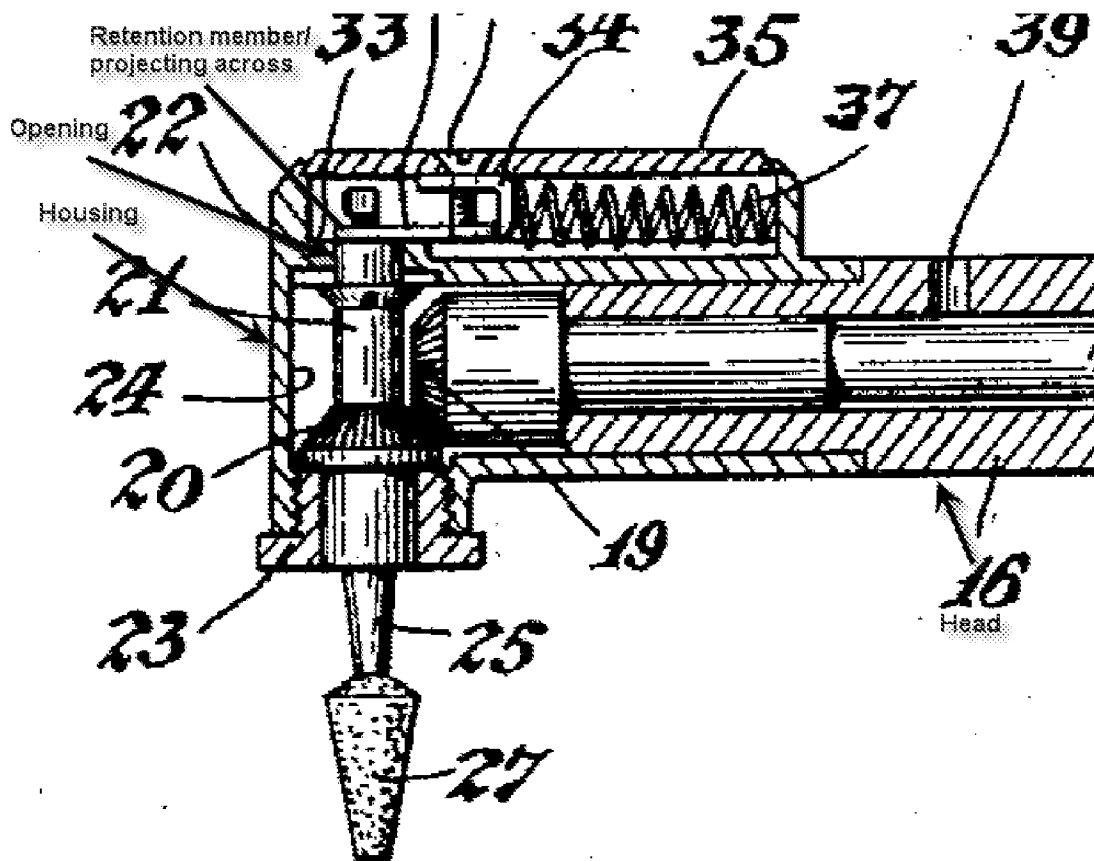
The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-12, 19-20, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chayes et al. in view of Lustig (4,449,932).

[continue...]

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Chayes et al. discloses a dental tool including a head 16 (fig. 1) and a dental instrument (fig. 5) adapted for use with the head; wherein the instrument has an active part 27 at a first end, and a handle at a second end of the instrument opposite to the first end; wherein the head has a body for receiving a shaft 18 for transmitting rotational movement produced by a mechanical member associated with the handpiece, and a bore 24 forming a housing for receiving the handle of the instrument; wherein the handle of the instrument includes a first rotary drive 20 which, when mounted in the housing, is capable of meshing directly with a second rotary drive 19 associated with the body of the head; wherein the first rotary drive is capable of retractable axial retention in the housing, independently of the second rotary drive (fig. 1, due to latching

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device 30); wherein the first rotary drive has a direction of rotation, the second rotary drive has a direction of rotation, and the direction of rotation of the first rotary drive is the same as the direction of rotation of the second rotary drive since the first and second rotary drive perpendicular from each other; wherein the first rotary drive includes a pinion (e.g. gear 20) capable of engaging a drive pinion located inside the body of the head, in the vicinity of the housing, and which is mounted on the shaft for transmitting the rotational movement produced by the mechanical member to the instrument; wherein the pinion of the first rotary drive has a profile (e.g. teeth-like), the second rotary drive includes the drive pinion located inside the body of the head (fig. 1), the drive pinion has having a profile (e.g. teeth-like), and the profile of the pinion of the first rotary drive meshes with the profile of the drive pinion of the second rotary drive when the instrument is placed in the housing, and wherein the pinion of the first rotary drive and the drive pinion of the second rotary drive come into contact at bottom portions of the drive pinion of the second rotary drive (clearly seen in fig. 1); wherein the head is shaped to receive the instrument by placing the head on the handle of the instrument; and wherein the head further includes a retractable retainer 30 for engaging the handle of the instrument responsive to manual operation, wherein the housing for receiving the handle of the instrument further includes an opening, and wherein the retractable retainer includes a retention member which projects across the opening (fig. 1) of the housing, and a shoulder portion on the instrument which is between shaft 25 and gear 20.

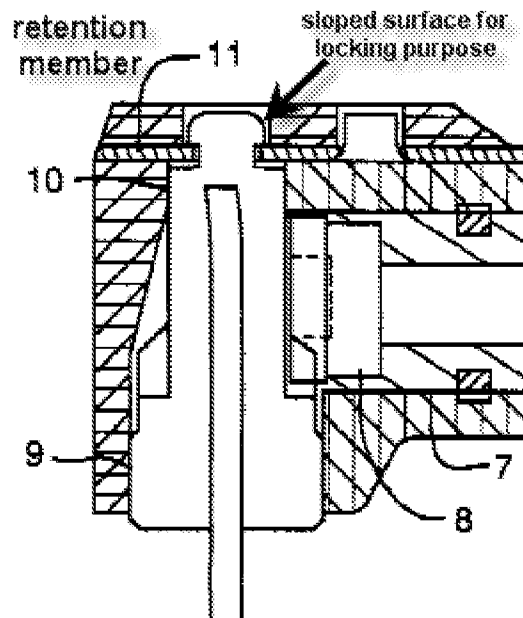
Chayes fails to disclose that the restoring spring is mounted concentrically on the body of the head and a ring coupled with the retention member and movable relative to the body of the head. It would have been an obvious matter of design choice to mount the restoring spring concentrically, since applicant has not disclosed that mounting the restoring spring concentrically solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with restoring ring.

Further, Lustig teaches dental contra-angle including a movable ring-like finger latch structure 46 coupled with the retention member (fig. 1 and col. 3, lines 36-47, 54-68, col. 4, lines 1-10) and movable relative to body of the head. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Chayes by providing a ring-like structure as taught by Lustig or its equivalents (e.g. ring) for retraction of dental instruments.

Claims 14-15, 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chayes et al. in view of Lustig as applied to claim above, and further in view of Euvrard (Pat. 6,155,827). Chayes/ Lustig discloses the invention substantially as claimed and further a horseshoe- shaped profile 32 on the instrument except for a sloped surface, and horseshoe-shaped profile on the retention member.

Euvrard teaches a sloped surface for locking purposes.

[continue...]



Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Chayes/Lustig by providing a sloped surface as taught by Euvrard in order to engage the instrument with the retention member and due to the slope surface, the retention member is capable of sliding for engagement. Likewise, the retention member having a sloped surface is equivalent to having a sloped surface on the instrument. Same applies to horseshoe-shaped profile.

Response to Arguments

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection. Applicant argues intended use/functional language (e.g. for receiving the handle...). With regard the statement of intended use and other functional statements, they do not impose any structural limitations on the claims distinguishable over prior arts which is capable of being used as claimed if one

so desires to do so. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Further, a retention member which projects across the opening of the housing is shown above in the drawing. Regarding claim 19, little or no patentable weight is given to functional language (e.g. for receiving...). Applicant's argument regarding a ring is addressed above in the rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to YOGESH PATEL whose telephone number is (571)270-3646. The examiner can normally be reached on 8:00 to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on 571-272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/YOGESH PATEL/
Examiner, Art Unit 3732

/Ralph A. Lewis/
Primary Examiner, Art Unit 3732